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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/029,774	12/20/2001	Damien R. Forkner	10012176-1	5672
7590 03/28/2008 HEWLETT-PACKARD COMPANY Intellectual Property Administration P.O. Box 272400 Fort Collins, CO 80527-2400				
			EXAMINER VO, LILLIAN	
			ART UNIT 2195	PAPER NUMBER
			MAIL DATE 03/28/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/029,774

Applicant(s)

FORKNER ET AL.

Examiner

LILIAN VO

Art Unit

2195

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 29 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: None.
Claim(s) objected to: None.
Claim(s) rejected: 1-4,6-14,16-21 and 23-26.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

/Meng-Ai An/
Supervisory Patent Examiner, Art Unit 2195

Continuation of 11, does NOT place the application in condition for allowance because: applicant's arguments are not persuasive for the reasons set forth below.

1. With respect to applicant remarks that Singhal does not disclose or suggest an application within a server computer system that includes both a persistent process and a plurality of transient process as set out by claim 1 (page 3 paragraph 2), the examiner disagrees.

As stated in the final office action, a transient process is understood and interpreted by the office as defined in the specification as a process within a server system which launches to handle client requests. In this case, Singhal discloses that user requests are being serviced on a server system (fig. 4). Thus, Singhal's system must inherently utilize a transient process which launches within a server system to execute the necessary tasks in order to service user requests.

A persistent process is understood and interpreted by the office as defined in the specification as a process within a server system that is used for example to perform complicated and memory-intensive processing such as generating the dynamic and interactive html content. Singhal clearly discloses a server system which generate dynamic page to fulfill client's request. In other words, Singhal's system inherently utilizes a persistent process which execute the necessary tasks in order to perform such complicated and memory intensive processing.

Therefore, Singhal inherently discloses a server system that utilizes the transient and persistent process which is consistent with the requirement of MPEP 2111.

Furthermore, the examiner has interpreted the claim language as broadly as possible. It is also the examiner's position that applicant has not yet submitted claims drawn to limitations which define the method and system of applicant's disclosed invention in a manner that distinguishes over the prior art. Failure for applicant to significantly narrow definition/scope of the claims implies the applicant intends broad interpretation be given to the claims. The examiner thus maintains the previous rejections to applicant's claims.

2. In response to applicant's argument that the claimed invention differs from the prior art and that it is impossible to determine within Singhal which tasks are performed by transient processes and which tasks are performed by persistent processes (page 6 paragraphs 2 - 3), a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim.

3. With respect to applicant's remarks that examiner's reliance on persistent processes and transient processes that are "inherent" within Singhal fails to meet examiner's burden to show that Singhal teaches or suggest all the claim limitations (page 6 last paragraph - page 7 paragraph 3), the examiner disagrees. MPEP 2112 states that "the claiming of a new use, new function or unknown property which is inherently present in the prior does not necessarily make the claim patentable... Under the principles of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed will be considered described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. In re King, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986)".

4. With respect to applicant's argument regarding claims 12 and 21, the examiner disagrees and responds to the remarks above in refuting the argument. .